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CANADA AND THE CHINESE: A COMPARISON WITH THE UNITED STATES

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Canada, although a dependency of the British Empire, has been wisely left alone by the mother country to work out her own destinies and to solve her own difficulties in whatever manner she may determine. Through that unrivaled system of colonial government, the most successful the world has ever seen, England has granted the Dominion practical independence with but passive adherence to a superior sovereignty, and the result of this policy of confederation has been the expansion of our neighbor of the north into the Greater Canada of to-day, sharing with us an active participation in the economic problems peculiar to North America in its relations with the Old World.

For over a century the industries, trade and commerce of Canada were what might almost be expressed as the "short and simple annals of the poor." The popular fallacy the world over was that the Dominion consisted of a vast region of ice and snow, relieved only by a narrow strip of fertile territory bordering on the United States. To the average uninquisitive reader the names of Alberta, Saskatchewan and British Columbia induced a mental picture identical with the climatic and topographical conditions of Labrador, Alaska and Greenland. Canada was looked upon as the Siberia of the Western Hemisphere, and, like Siberia, according to the same unreasoning fancy, was arbitrarily condemned in the popular imagination as a barren waste, unproductive, undesirable, its greatest value lying in increasing the aggregate number of square miles comprising the British Empire to an astonishing total.

Until a comparatively recent date the possibilities of Canada were unknown to the world, being overshadowed by the unprecedented growth and prosperity of the United States, but with international rivalries dominating trade and commerce, with the scramble of the great Powers for the last few acres of unclaimed land, and with the intensive development of colonies and dependencies already in pos-

session, Canada has at last deservedly come to her own. The history of Canada for the last thirty years reads like a reflex American movement. It is punctuated throughout by the same steady growth, the kind that never declines, the same railroad activities, the same beginnings of manufacture, the same problems of pushing the frontier further west or further north as has been the history of the United States up to the last half century.

However, with the development of her immense potentialities, it did not take Canada long to discover that progress, however natural and continuous, has its attendant difficulties. Of these the race question is by far the most fragile to handle and the most puzzling to solve, of undue importance politically because of the complications ensuing in foreign relations, and serious sociologically because of the influences, sometimes uplifting, more often retarding, upon national characteristics. While Canada was in her pristine stages of development she was spared this vexatious problem which has proved so damaging to the United States, but with her consequent economic advance it was inevitable that sooner or later races other than Caucasian would be attracted to her shores to participate in the material advantages which prosperity in a new country invariably offers to old civilizations.

Like our own country Canada faces, Janus-like, the Occident and the Orient, and similarly the waves of exploitation and settlement flowed from east to west. Thus, with one coastline extending along the Pacific, opposite the most populous area of the earth's surface, it was but natural that as soon as Canada's advantages became known to the world, the races of the Far East would find here a strong incentive for immigration in the desire, alike in all peoples, of bettering their economic conditions. The pioneer Chinese came in the beginning sixties, actuated by the same impulses which caused their first invasion of the United States, namely, the discovery of gold in the mines of Cassiar and Caribou. Later in the eighties began the construction of the Canadian Pacific Railway, by which the provinces of the Dominion were knit together with transcontinental lines of steel. The era of railroad building meant the same problems to Canada as it meant to the United States in the previous decade, and here again the Chinese, the best laborers in the world for such purpose, were called upon to make the transportation dream of Canada's statesmen a reality. But more laborers came than were wanted,

and it was found necessary to impose such restrictions, hitherto none, as would keep the non-assimilative portion of the population within reasonable bounds. The Canadian of the Pacific coast feared, and rightly so, an Asiatic flood that might easily have submerged the few thousand inhabitants that represented the dominant race. Therefore, in 1884, the Dominion government appointed a royal commission to investigate the question and the result was the imposition, in 1886, of a tax of \$50 per head upon incoming Chinese.

By the census of 1891 there was a total of 9,129 Chinese in Canada, and of this number 8,910 resided in British Columbia. The capitation tax of \$50 was, however, too low to appreciably lessen the influx of Orientals; therefore an increase to \$100 was determined upon, to take effect in 1901. Even this was declared by the people of British Columbia, the province most affected by the immigration, to be utterly inadequate, and a second commission was ordered by the government to make a thorough investigation. It was this commission of 1900 which recommended the increase of the capitation tax to \$500, the present ratio, and a law was accordingly enacted by the Canadian Parliament, to come into force January, 1904, whereby the tax was raised to the specified amount, where it has since remained.

By January 1, 1904, there were approximately 30,000 Chinese in Canada, and of these 16,007 arrived from June, 1900, to the above mentioned date.¹ With the increase of the tax to \$500 the immigration became for a few years a negligible quantity,² and it was hoped that the solution of the perplexing problem had been reached. Nevertheless a new difficulty arose, curiously enough the logical resultant of this exorbitant head-money.

¹ Fiscal year, June, 1900, to 1901.....	2,518
Fiscal year, June, 1901, to 1902.....	3,525
Fiscal year, June, 1902, to 1903.....	5,245
June, 1903, to January 1, 1904.....	4,719

16,007

From *Report* by W. L. Mackenzie King, C.M.G., of the Royal Commission appointed to inquire into the methods by which Oriental laborers have been induced to come to Canada. Ottawa, 1908, p. 70.

² *Ibid.*, p. 70:

January 1, 1904, to June 30, 1904.....	0
June 30, 1904, to June 30, 1905.....	8
June 30, 1905, to June 30, 1906.....	22
June 30, 1906, to June 30, 1907.....	91

121

To all intents and purposes Canada had become a closed country to the average Chinaman. Immigration had been effectively discouraged, and the fortunate Orientals who had succeeded in coming to Canada prior to the enactment of the prohibitive tax were apparently the only ones who would be able to enter the happy land. This led, however, to an immediate readjustment of labor according to the conditions as they now existed, which contingency the legislators had no doubt failed to take into account. As the available supply was momentarily at a standstill the people of British Columbia, of both races, awoke to the fact that Chinese labor in Canada was now limited, practically a static quantity and subject only to slight increase. The peculiar economic advantages thus accruing to the Chinese are ably expressed by the Royal Commissioner. Said Mr. King: "The Chinaman who had landed in this country prior to January, 1904, discovered that the state, unwittingly perhaps, had, by restricting further competition from without, created of his labor a huge monopoly; without organization, without expense, without even agitation, every Chinaman became a unit in a labor group more favored than the most exclusive and highly protected trade union."³ Coupled with this was the fact, admitted by all unprejudiced critics, that the Chinese were the best laborers obtainable for many industries. Their mode of living, ingrained through necessity by centuries of limited food supply almost down to the starvation point, their astonishing endurance, the result of intermittent labor in China necessary to keep body and soul together, their submissiveness and lack of aggressive action, an outgrowth of Confucianism which our West never understood, their cheerfulness, their fatalistic philosophy and their extraordinary aptitude for grinding toil, a vice instead of a virtue according to the weaker Caucasian standards, all of these qualities have made them well-nigh indispensable for the rapid development of a new country. Considering these traits, applicable to the entire race, it was but natural, with the further supply almost cut off, at least to any appreciable extent, that their labor should increase in demand, and with this increase, at variance with the stationary, even diminishing number available, it can readily be seen that the monetary value of their services advanced tremen-

³ From *Report* by W. L. Mackenzie King, C.M.G., of the Royal Commission appointed to inquire into the methods by which Oriental laborers have been induced to come to Canada. Ottawa, 1908, p. 71.

dously. It operated, in fact, as a "huge monopoly." The fortunate Oriental in Canada discovered that the state had, innocently enough, doubled and even trebled his earning capacity. It was revealed by testimony before the Royal Commission that by the inauguration of the \$500 tax the average wage for even such ordinary work as packing fish arose from \$25 to \$40 with food to \$60 and \$70. With wages in China for unskilled labor at 5 or 10 cents per day and wages in Canada at first \$20 to \$40, and now double, the Chinaman already resident in the Dominion saw here the golden opportunity which comes but rarely in a lifetime. A few years of welcomed hardships and he would be able to return to the Orient burdened with excessive wealth, to become the Carnegie of his native village, honored, envied and execrated by all.

The passage of this high tax rate was not received with unanimity of opinion by the Canadian people. Although beneficial and desirable in the main, it was inevitable, according to the law governing taxation and economic restrictions, that the act would cause some hardship somewhere. Foremost among those that suffered were the fruit growers who had taken up land in the extreme western provinces, in many cases direct from the government, with the reasonable expectation that they could depend upon Chinese labor to garner the immense crops. From gathering fruit, however, the Chinaman, with his ready adaptability, turned to the more profitable fields of industry, and this caused a shortage of necessary hands which occasioned acute distress. The owners of the fruit ranches, undergoing the same experiences as their brethren in California, but more sensible in seeking a solution, held meetings, made speeches and presented petitions to the Canadian Parliament praying for relief, at least for a sufficient number of Chinese as would move the annual crops, but without result, which shows, nevertheless, that there were two sides to this question.

Nor can the Chinese be blamed for making the most of their opportunities. The various lines of industry in which they were pre-eminent, indeed, desired above all other races, increased their advantages and made more rapid their change from one field to another where the monetary inducement was greater. They have been severely censured for resorting unduly to "French leave," their enemies even trying to make this out as a national characteristic, but that is unfair, for such is human nature the world over

wherever there is a chance for a greater financial consideration. Nevertheless this kaleidoscopic change from one employment to another caused many a hardship in the staid Canadian homes in British Columbia and gave a new aspect to the universally vexatious servant problem. As one writer remarked: "For instance, in summer Vancouver, it is nearly impossible to get servants because they all go off to the canneries; but when the salmon have all gone down to the sea the cooks come back to their kitchens and the households of Vancouver run smoothly again."⁴ It has been experienced since, by the people of both Canada and the United States that the Japanese laborers are prone to take "French leave," in the original meaning of the term, far more than the Chinese at their worst.

The greatest benefit resulting from the imposition of the increased tax was the abolition at one blow of the labor agencies and contractors that had made Chinese immigration a highly specialized field of investment. This undesirable traffic had continued under the \$50 tax and even under the \$100 tax, but with the necessary sum increased to \$500 the risks involved were too great to further consider the Chinese laborer a safe business proposition. The \$500 tax struck at the very root of the system, abolished it completely and ruined once for all this hitherto profitable trade in humanity, and this while the United States is still trying, with varying degrees of success, to break up the padrone and other contract labor systems by summary legislation, and devising schemes whereby the trade in Mexican peons in the Southwest can be similarly reduced and ultimately destroyed.

Within about three years the economic results of the increased tax had become fully apparent to the Chinese. Having prospered exceedingly because of the peculiar conditions outlined above, a large number of Orientals took advantage of their good fortune to return home for a visit, and this number grew so large that the steamship companies had difficulty in affording the required accommodations. While in China the news was spread around of the new land of riches beyond the seas and the wonderful remunerations for labor there obtainable. Moreover, Chinamen who had accumulated a sufficient surplus were able to secure for their relatives and friends, by advancing the money necessary for the tax, the same opportunities which they themselves had enjoyed. The Chinese who remained

⁴ *Living Age*, No. 3268, February 23, 1907, p. 503, from article in *Macmillan's Magazine*.

in Canada wrote home flattering accounts, in most persuasive terms, in order to induce their former comrades to join them in the New World. It is worthy to note that the immigrants were generally males, for, wealthy though the Chinese now were according to their own standards through their stay in British Columbia, yet this was but a temporary residence, an exile voluntarily endured; almost without exception they were passionately desirous of returning to their nativity at the most convenient time, so as to enjoy among their own kind the fruits of their labor. Thus, at a bound, immigration again went up to respectable figures, and from June 30, 1907, to March 31, 1908, there were 1,482 new arrivals in the Dominion, whereas in the entire preceding year but 91 had gained admission.

Many Canadians deprecated this undue increase of Orientals, their apprehensions directed not only against the Chinese, but including equally the Japanese and Hindus, who had made their appearance in corresponding numbers. It was feared that the influx of aliens might become so great as to impair the safety of the commonwealth, and during the year 1907 racial feeling ran high in British Columbia. Unfortunately this feeling of hatred, anti-Asiatic in origin and purpose, grew until a certain element of the white population of Vancouver proceeded to take matters in their own hands, the result of which was the deplorable September riots, in which much property belonging to Chinese and Japanese residents was destroyed. The situation was a new one for the Dominion, although an old story, and a sordid one at that, in the United States. It was a critical moment in the history of Canada, for not only her own policy hinged upon the outcome, but the foreign policy of the entire British Empire, penetrating every corner of the globe and on especially delicate foundations in the Far East, was similarly involved. It is now the writer's pleasure to comment on the magnanimous spirit, the truly Britannic sense of fair play, with which Canada met the difficulty and solved it, in a way which leaves a warm regard for this people who can successfully engage in what is perhaps the most momentous question of modern times, namely, the conflict of color, the hatred of race for race, of nation for nation, which, curiously enough, instead of growing less with the spread of international law and comity, and the establishment of The Hague tribunals, seems to become greater year after year. There was but one thing for Canada to do, and that was to do the right thing, to face the situation fairly and squarely,

to submerge self-interest in the interests of humanity and the world's peace. Accordingly the Dominion government appointed the Hon. W. L. Mackenzie King, C.M.G., as commissioner to inquire into the causes and results of the September outrages and to determine the necessary damages to be paid, for Canada had actually resolved to reimburse the Asiatic population for its losses, the noblest act of which she was capable. A searching investigation was the result, a large number of witnesses were examined, every penny of loss, actual and resultant, was carefully tabulated, and the total loss incurred by the Chinese alone⁵ at Vancouver was thereupon found to be \$25,990. This sum was reported by the Hon. Mr. King to the Minister of Labor, with the additional recommendation that an extra thousand dollars be given the Chinese to repay them for the legal expenses of the investigation. The total sum, \$26,990, was paid without quibble by Parliament.

This was applying the principles of Christianity in sincerity. What a contrast is this Canadian method of dispensing justice to aliens to our delightful American system of shifting the responsibility for outrages against helpless foreigners from state government to

⁵ A similar careful investigation was made of the losses sustained by the Japanese residents of Vancouver, which claims, presented by the Japanese consul-general, amounted to \$13,519.45, of which \$2,405.70 was given as actual and \$11,113.75 as resultant. Through the searching inquiries of Mr. King, it was found, however, that "there was a difference of some \$4,500 between the total amount claimed and the total amount awarded," which was accounted for "by somewhat exorbitant claims made by one or two merchants for alleged losses in business, and more or less excessive claims made by some of the Japanese boarding-house keepers." In settling the Chinese claims to a penny, the commissioner had remarked that "the claimants appear almost without exception to have exercised moderation and a sense of fairness in the amount at which their respective business losses were estimated. In only two cases was a claim made for losses beyond a period of six days. Some of the claimants took account only of losses on account of expenditure for the time during which their places of business had been closed, and omitted any reference to loss of profit during the same." The only difficulty experienced with the Chinese was in approximating the claims for guards who had protected their property in the days following the riot. The fact that every claim was allowed as presented illustrates again the proverbial honesty and commercial integrity of the Chinaman.

The Japanese consulate at Vancouver ably assisted the commissioner in ascertaining the damages to Japanese property. Mr. King sent a check for \$1,600, authorized by order in council, to the consulate for its efficient help, which was returned by the consul with the courteous information that, "while appreciating the high and honourable motives which have prompted you and your government . . . I regret that it is impossible for my government to accept a reward for protecting the interests and property of the subjects of Japan." An extra \$189 was also recommended by Mr. King to reimburse the Japanese for the expense of declaring their claims.

As the various amounts were settled the individual Japanese affected were required to give a quit-claim to the Dominion government, which declaration of release, it seems, was not demanded of the Chinese.

See *Reports* by W. L. Mackenzie King, C.M.G., as to the losses of the Chinese and Japanese population of Vancouver; 7-8 Edward VII, Sessional Paper No. 74 f, A. 1908; 7-8 Edward VII, Sessional Paper No. 74 g, A. 1908, Ottawa, 1908.

federal and from federal government back to state, a continual seesaw ending only when the foreign government retires in disgust or when the United States is forced to make amends by a power sufficiently belligerent and capable to enforce its claims, as did Japan in the humiliating episode of the San Francisco school question, which ended in a diplomatic defeat for the government at Washington. Another case in point is the New Orleans riots of 1891, where the United States attempted to make Louisiana pay indemnity for the violation of treaty rights to Italy. Louisiana flatly refused, and the federal government was forced to settle the Italian claims through the national treasury, and not until this onerous duty had been performed was the United States able to wheedle Louisiana into repaying the sum. But with China all the absurdities of our system worked beautifully. China, being without money or military resources, and consequently outside the pale of justice, was unable to exact compensation. She was unable in the majority of instances even to secure enforcement of the law and legal responsibility for the destruction of her citizens' property and the murder of her nationals in California, Wyoming and Colorado. Chen Lan Pin, her able representative, in his efforts to secure satisfaction for the outrages committed in the last-named state, was referred by the national government to Colorado and from Colorado back to the national government, although the latter had no jurisdiction in the matter, because, according to our peculiar code of state rights, which should have been obsolete a century ago, this was a case for the local judiciary. Needless to say, after a wearisome exchange of negotiations, in which it developed that the United States had little control over territory and none whatever over state in these instances, the Chinese minister failed in his purpose.⁶ The concealed justice lurking in such an

⁶ The following curious arguments were used by Secretary of State Evarts to Minister Chen in defending the United States. Said the Secretary:

"It seems superfluous to recall to your attention the fact, but too well attested by history, that on occasions, happily infrequent, often without motive in their inception, and always without reason in their working, lawless persons will band together and make up a force in the character of a mob, of sufficient strength to defy, for the moment, the denunciations of the law and the power of the local authorities. Such incidents are peculiar to no country. Neither the United States nor China is exempt from such disasters. In the case now under consideration (the Denver riot) it is seen that the local authorities brought into requisition all the means at their command for the suppression of the mob, and that these means proved so effective that within twenty-four hours regular and lawful authority was re-established, the mob completely subdued and many of the ring-leaders arrested.

"Under circumstances of this nature when the government has put forth every legitimate effort to suppress a mob that threatens or attacks alike the safety and security of its own citizens

arrangement of equity and international obligations was impossible of discernment even to this Oriental brain schooled in the nicest subtleties of Confucius and Mencius. Although at the present

and the foreign residents within its borders, I know of no principle of national obligation, and there certainly is none arising from treaty stipulation, which renders it incumbent on the government of the United States to make indemnity to the Chinese residents of Denver, who, in common with citizens of the United States, at the time residents in that city, suffered losses from the operations of the mob. Whatever remedies may be afforded to the citizens of Colorado or to the citizens of the United States from other states of the Union resident in Colorado for losses resulting from that occurrence, are equally open to the Chinese residents of Denver who may have suffered from the lawlessness of the mob. This is all that the principles of international law and the usages of national comity demand.

"This view of the subject supersedes any discussion of the extent or true meaning of the treaty obligations on the part of this government toward Chinese residents, for it proceeds upon the proposition that these residents are to receive the same measure of protection and vindication under judicial and political administration of their rights as our own citizens."

This is all very well and very neatly expressed, but the question arises, how are the Chinese going to obtain this "same measure of protection and vindication under judicial and political administration," at the hands of local courts, under local control and influenced by local prejudice? The arguments of Mr. Evarts, however sincere he may have been in stating them, are entirely beside the point at issue, and instead of solving the difficulty, only make it plainer that the enforcement of treaty rights and obligations is a duty of the federal government to perform and not the duty of the state courts.

On September 2, 1885, occurred the riot at Rock Springs, in the Territory of Wyoming, in which twenty-eight Chinese were killed and property valued at \$147,748.74 was destroyed or appropriated. The Chinese Minister Cheng Tsao Ju, made it clear to Secretary Bayard that the riot had been unprovoked by the Chinese, that no attempt had been made by the authorities to quell the disturbance, and that it was unlikely, "according to the reports of the consuls," that any of the rioters would be brought to punishment by either the territorial or local officers. He demanded full indemnity for the Chinese losses and injuries, and also measures that would in the future protect his countrymen in the United States. Minister Cheng also proved himself to be familiar with the arguments used by Secretary Evarts and Secretary Blaine, who had succeeded Mr. Evarts, in denying the legal liability of the United States to make reparation in the Colorado case, but this, he pointed out, had been concerned with a state, whereas the present disturbance had taken place in a territory of the United States and over which the government at Washington presumably had complete control. Therefore in this Wyoming outrage he demanded full indemnity from the national government and an admission of federal responsibility. Secretary Bayard replied by lengthy and tedious arguments in an effort to show that, by the treaties and conventions with China, the United States had fully performed its part, that the Chinese were not discriminated against any more than other aliens, and that they enjoyed equally with other nationalities the same privileges and protection of the law. He concluded with the recommendation, as "the circumstances of the case now under consideration contain features which I am disposed to believe may induce the President to recommend to the Congress, not as under obligation of treaty or principle of international law, but solely from a sentiment of generosity and pity to an innocent and unfortunate body of men, subjects of a foreign power, who, being peaceably employed within our jurisdiction, were so shockingly outraged," that, therefore, "it may reasonably be a subject for the benevolent consideration of Congress," with the "distinct understanding," however, "that no precedent is thereby created, or liability for want of proper enforcement of police jurisdiction in the territories." By the act of February 24, 1887, Congress granted the sum of \$147,748.74 to be distributed at the "discretion of the Chinese government" among the victims of the Wyoming riot. During the debate in Congress, Senator Edmunds, himself of the majority, took occasion to remark, however, that "there can be negligence between nations on the part of governments. . . . One nation as between itself and another is not bound by the internal autonomy of that state, but it looks to the body of the nation to carry out its obligations, and if they have not the judicial means to do it, for one reason or another, the nation that is injured is not bound by the

moment it must be admitted that quite a *rapprochement* has been reached between our dual governments as to responsibility for violating "the highest law of the land," yet at the first outbreak where racial passions run riot against various nationalities as in the past, outbreaks which will surely occur again because of the complexities of our population, we will probably experience a repetition of the old story, and with what results no one can foretell. Mr. Roosevelt, while President, did much toward strengthening the power of the executive and emphasizing the central government in the application and enforcement of treaty rights and obligations, and it is hoped that the present tendency will continue.

It is interesting to analyze the Canadian Chinese Immigration Act by a comparison with the "Exclusion Laws" of the United States. In section 43 of the general American code for aliens⁷ it is expressly provided "that this act shall not be construed to repeal, alter or amend existing laws relating to the immigration or exclusion of Chinese persons or persons of Chinese descent." Consequently by the latest expression of our immigration policy the Chinese are not included in the benefits enumerated, but share only in the general restrictions, remaining as heretofore a race apart, singled out and the only exception, from all the rest of mankind. According to section 79 of the Canadian act,⁸ "all provisions not repugnant to *The Chinese Immigration Act* shall apply as well to persons of Chinese origin as to other persons." The distinction here made by the writer may seem trivial to the general reader but to the student of Far Eastern affairs it is significant enough. Canada does not segregate the Chinese into a class by themselves as we do, neither does she foolishly offend their race susceptibilities, but instead takes care not to cause them to "lose face," that inexplicable emotion which is in itself an epitome of the Chinese character, individually and nationally. The Chinese, on the other hand, feel that we purposely discriminate against

failure of the nation whose people committed the injury." Nevertheless the federal government persisted in denying that it was legally responsible even for outrages committed within the territories.

By the Deficiency Appropriations Act of October 19, 1888, Congress authorized a further sum of \$276,619.75 to be paid in settlement of Chinese claims for earlier disturbances.

See Moore, John Bassett, *A Digest of International Law*, 8 vols., Washington, 1906, vol. vi, pp. 820-837.

⁷ Act of February 20, 1907; 34 Stat., 898, as amended by act of March 26, 1910; 36 Stat., 263, an act to regulate the immigration of aliens into the United States.

⁸ Act respecting immigration, assented to May 4, 1910, and an act to amend the act respecting immigration, assented to April 4, 1911.

them and feel it keenly. It is their common complaint that we hold them to account for every act and characteristic of which we disapprove, whereas the shortcomings of all other nationalities, no matter how glaring, are deliberately overlooked.

Canada specifies no excluded class of Chinese except the kind applicable to all races necessarily found in the general immigration laws of both countries, namely, paupers, idiots or insane, immoral persons or persons suffering from loathsome, infectious or contagious diseases. All normal Chinese are freely admitted upon the payment of the tax. The United States definitely excludes all Chinese except those specifically exempted from the operation of the act, the same in Canada from paying the tax, as the diplomatic and consular corps, teachers, merchants, students⁹ and travelers. The general tone of the Canadian act is conciliatory, of the American act hostile. Canada exempts, the United States excludes, and between these two terms lies the greatest difference. Canada has found out that excluding and thereby irritating the coming power of the Far East is not necessary. The \$500 tax easily cuts down immigration to the desired level, aided as it is by the requirement that no vessel can carry more immigrants than one to every fifty tons burden. Why cannot we have the same clause and thus at one stroke sever the greatest and most lasting cause for misunderstanding between America and China? A \$500 head-tax would operate as satisfactorily here as in Canada. That is beyond argument. Or if \$500 be deemed too low the price for entry could be raised to \$1,000. That surely would be prohibitive. By the imposition of this burdensome tax, necessarily so in order to prevent the undesirable coolie element from migrating to our Pacific coast, the situation would be saved by a technicality, and the United States would be released from the constant embarrassments occasioned by the application and enforcement of the present acts. If this proposal were accepted and put into legislation it would not be necessary for China further to "lose face," it would not be neces-

⁹ As to students (7-8 Edward VII, Chap. 14, Sec. 3): "A student of Chinese origin who upon first entering Canada has substantiated his status as such to the satisfaction of the controller, subject to the approval of the minister, and who is the bearer of a certificate of identity, or other similar document issued by the government or a recognized official or representative of the government whose subject he is, and who at that time satisfies the controller that he is entering Canada for the purpose of securing a higher education in one of the recognized universities, or in some other educational institution approved by the governor in council for the purposes of this section, and who afterwards furnishes satisfactory proof that he has been a *bona fide* student in such university or educational institution for a period of one year, shall be entitled to a refund of the tax paid by him upon his entry into Canada."

sary for the Chinese to realize as now that the greatest nation of the Western Hemisphere is a closed nation to them, as impossible to enter legally as for us to enter the holy City of Mecca, for such are the popular suppositions in China regarding our "Exclusion Laws." There is no need to elaborate on the amount of the tax herein proposed; that is beside the argument. It is certain, however, that by such an arrangement the present serious misunderstandings and harsh criticisms on both sides of the water would be removed, and even if a few hundred more Chinese would enter yearly we could use them to the greatest advantage in California and elsewhere.

There is no restriction whatever in the Canadian act against the Chinese otherwise than limiting their number. In the act of the United States,¹⁰ however, we read that, "hereafter no state court or court of the United States shall admit Chinese to citizenship; and all laws in conflict with this act are hereby repealed." Now the naturalization of any other foreigner is permissible by fulfilling the requirements, namely, five years of continuous residence, declaration of intention two years in advance, renouncing allegiance to the native government, ability to speak English and intention to reside permanently in the United States. The result of such discrimination was amply illustrated in the history of the West since the exclusion laws were enacted; everyone despised the Chinaman for his inability to become a citizen and saw in him just prey for mob violence. Any other foreigner of whatever standard of morals or brains had and still has the inherent right by law to become naturalized, but the Chinaman, by the same law, no matter how superior in morals or brains, cannot rise above the status of the alien, the lowest stratum in the political community. This clause is unnecessary. Passed in the heat of labor controversies, it has remained in force, together with exclusion, because of the strange inability of the average American to comprehend his country in an international light. The denial of the right of expatriation is an affront which the United States dares not offer to any capable power; furthermore, it is useless in this instance, as few Chinese would avail themselves of the privilege. In repealing this offensive stipulation against the world's latest republic, the *entente* between the two nations, now

¹⁰ Sec. 14 of act of May 6, 1882; 22 Stat., p. 58, as amended and added to by act of July 5, 1884; 23 Stat., p. 115.

largely alike in government, would be materially increased.¹¹ As it is, China is well aware of the fact that by refusing citizenship to her nationals, the United States has put her people on an immeasurably lower plane than any other races here residing, and has kept them there; but in spite of the boycotts against American trade by which the United States lost millions of dollars and a corresponding proportion of commercial and political prestige, the lesson has not yet been driven home.

The Canadian law is free from all the vexations and spiteful restrictions which hedge in the Chinese by the law of the United States as regards entry and registration. By the Canadian act, "the chief controller, and such controllers as are by him authorized so to do, shall keep a register of all persons to whom certificates of entry have been granted."¹² The American system is a maze of tortuous qualifications too tedious to enumerate, resulting of course from the fact that the immense majority of the Chinese nation is absolutely excluded, and through the fear of the United States that one of them might slip in by mistake in the guise of an exempt or returning laborer and thus evade the Chinese wall of restrictions against him. The greatest fault of our system of entry and registration lies in the fact that too many times the best and noblest of the Chinese race are actually put in the detention sheds and, pending trial, subjected to the same indignities which the stolid coolie accepts with equanimity but which create in the Chinese of the higher classes a deep-seated hatred for this government and its institutions, which is immediately put into play upon their return to China. The consequent effect of this hatred on the American diplomatic and commercial policy in the Far East is familiar to every one who has studied the situation.

The Canadian law provides that the certificate which the

¹¹ A good beginning was made, but soon discarded, by the Burlingame treaty of July 8, 1868, which stated in Article V that "the United States of America and the Emperor of China cordially recognize the inherent and unalienable right of man to change his home and allegiance, and also the mutual advantage of the free migration and emigration of other citizens and subjects respectively from the one country to the other for purposes of curiosity, of trade or as permanent residents." This treaty, however, it must be remembered, was ratified while the United States, and all the world for that matter, gave China credit for having enormous military strength which made imperative an exchange of benefits. Not until the Chino-Japanese war of 1894-5 was the astonishing weakness of the former Chinese Empire fully revealed.

For the text of the Burlingame treaty see Moore's *Digest*, vol. v, p. 430; *Treaties and Conventions*, etc., of the United States and foreign powers, 2 vols., Washington, 1910, vol. i, p. 235. See also Moore, *Ibid.*, vol. iii, p. 587; vol. iv, p. 187, 551; vol. v, p. 429.

¹² 3 Edward VII, c. 8, s. 14; Rev. Stat., 1906, ch. 95, s. 17.

Chinese immigrant receives "shall be *prima facie* evidence that the person presenting it has complied with the requirements of the act," with the reservation that "such certificate may be contested by His Majesty or by any officer charged with the duty of carrying this act into effect, if there is reason to doubt the validity or authenticity thereof, or of any statement therein contained;" furthermore, "such contestation shall be heard or determined in a summary manner by any judge of a superior court of any province of Canada where such certificate is produced."¹³ By the regulations of the United States, "any Chinese person, other than a Chinese laborer, having the right to remain in the United States, desiring such certificate of such right, may apply for and receive the same without charge."¹⁴ Thus the American specification as regards the exempt classes actually seems at first glance to be the fairer, but it must be remembered that our law has not in the majority of instances worked smoothly, first, because of the exclusion feature which in every case is necessarily involved; second, because of the inability of occasional immigration officers, past and present, to distinguish one Chinaman from another, or a scholar, merchant or "high-class" Oriental from the ordinary coolie. Consequently the result has been that too many times in this country the certificate of an undeniable exempt has been unjustly contested, or the Chinaman legally residing here or visiting this country for pleasure has been subjected to indignities by irresponsible officers in the preliminary investigation even before receiving his certificate. The entire attitude of the United States toward the Chinese has been necessarily colored by the policy of exclusion, and the constant misunderstandings and ill feeling will continue until the laws are modified in some satisfactory manner.

As regards the laborer, he must indeed be a man of more than ordinary brains to evade the seemingly impenetrable meshes of restrictions guarding against him, and should one so manage to enter this country and later be found wanting, he ought straightway receive his certificate of residence as a reward for his feat of accomplishing the impossible.

The application of a returning merchant claiming domicile in the United States must be established "by the testimony of two credible witnesses other than Chinese," to prove that "he conducted

¹³ 3 Edward VII, c. 8, s. 13; Rev. Stat., 1906, ch. 95, s. 8.

¹⁴ Act of May 5, 1892; 27 Stat., p. 25, Sec. 6.

such business as hereinbefore defined for at least one year before his departure from the United States, and that during such year he was not engaged in the performance of any manual labor, except such as was necessary in the conduct of his business as such merchant and in default of such proof shall be refused landing."¹⁵ If he was to undergo deportation he was to suffer arrest and was "not to be admitted to bail." If the certificate were by chance granted to him it must contain "the photograph of the applicant, together with his name, local residence and occupation." The photograph must be furnished "in such form as may be prescribed by the Secretary of Commerce and Labor," and the special work of art necessary to satisfy the requirements is made clear by painstaking detail.¹⁶

Anyone who is acquainted with the proverbial honesty of the Chinese merchant, and who has visited the enormous bazaars of Oriental art in San Francisco and Los Angeles, where the treasures of the Far East are gathered with loving care and in perfect taste, must know that these stipulations do not tend to inculcate a good understanding or a reciprocity of interests between the Chinese mercantile classes and the United States, and that whenever a merchant returns to China and recites to an indignant audience the story of his humiliating experiences in America, by so much in every instance is the commercial opportunity of the United States in the Far East lessened and put to greater disadvantage. The race is not infallible, yet the entire world concedes that the integrity of the average Chinese merchant is beyond criticism, and he is trusted by European bankers and establishments to an extent denied to any other nationality. This is because his religion and system of philosophy successfully teach him that honesty in business is one of the cardinal virtues. Even the humblest merchant with the smallest

¹⁵ Act of November 3, 1893; 28 Stat., p. 7, Sec. 2.

¹⁶ Some interesting Bertillon measurements are given in the *Regulations* as to photographs, which were to be unmounted, "of suitable quality," and "printed from a negative that has not been retouched, representing the subject without hat, full front view, showing both ears, measuring 1¾ inches from top of head to point of chin. The photograph shall be attached to the certificate with great care to insure permanency and prevent warping." Furthermore the stature of the applicant "shall be carefully taken and inserted in feet and inches, and in recording physical marks and peculiarities those which are the most prominent and the least likely to be obliterated by lapse of time shall be selected."

Regarding the exempt who wishes to travel, it is provided that the photograph must be taken "from a negative that has not been retouched, full front view, showing both ears, about 3 by 3 inches square, head 1¾ inches long from top of head to point of chin." The Chinese are of course, unable to see the humor in these stipulations.

See *Regulations* governing the admission of Chinese, Rule 19, Section (E); Rule 21, Section (10).

kind of a store is invariably courteous without being ostentatious, kindly, cheerful, indifferent to sales and ignorant of the manifold schemes by which other merchants enhance the price of an article which the tourist, by an unwise display of emotion, shows that he wishes to possess. It would be a good thing for our country if we had a few of these types of Chinese in some of our lines of industry, especially in those that cater to the poor, who pay a higher price for the necessities of life of inferior quality, as every social settlement worker knows, than any other class. Yet these merchants are of the race which our laws stigmatize as undesirable, to be kept down to a minimum which might as well be total expulsion.

The Canadian law respecting re-entry, on the other hand, is beautiful in its simplicity. As regards this section of the act, it is provided that "every person of Chinese origin who wishes to leave Canada, with the declared intention of returning thereto, shall give written notice of such intention to the controller at the port or place whence he proposes to sail or depart, in which notice shall be stated the foreign port or place which such person wishes to visit, and the route he intends to take both going and returning, and such notice shall be accompanied by a fee of one dollar.

"The controller shall thereupon enter in a register to be kept for the purpose, the name, residence, occupation and description of the said person, and such other information regarding him as is deemed necessary, under such regulations as are made for the purpose.

"The person so registered shall be entitled on his return, if within twelve months of such registration, and as proof of his identity to the satisfaction of the controller, as to which the decision of the controller shall be final, to free entry as an exempt or to receive from the controller the amount of the tax, if any, paid by him on his return; but if he does not return to Canada within twelve months from the date of such registration he shall, if returning after that date, be subject to the tax of five hundred dollars imposed by this act in the same manner as in the case of a first arrival." ¹⁷

Here again it is necessary to remark that Canada's task is far simpler than ours because Canada has no excluded class of Chinese other than those undesirables of all races, which are debarred likewise by both nations. The question of exemption from or payment of

¹⁷ 3 Edward VII, c. 8, s. 18; Rev. Stat., 1906, ch. 95, s. 20, 21.

the \$500 tax is all that concerns the above-quoted sections of the Canadian act. Our laws are and must be extremely more technical, involved and severe because of our policy of exclusion. The only way to make our regulations just as brief and effective as those of our northern neighbor and thus remove all clauses prejudicial to China, is to eradicate the exclusion feature and imitate Canada by substituting instead a sufficiently prohibitive head-tax, by which, according to all reason, better results would be obtained both at home and abroad and in a far more satisfactory manner. As our acts stand they are cumbersome and unwise, the lingering results of a period of lawlessness which should be conveniently forgotten and blotted from our legislation as soon as possible. Canada has had the advantage of profiting by our mistakes and therefore is in a better position to-day than we to command the good will and respect of the new Asiatic power.

It may be offered in extenuation of the United States that Canada has not been confronted with the entire gravity of the so-called Chinese question. That would be erroneous; if at all, Canada has had a situation of far greater complexity to solve than ever we were subject to even in the most grievous days of our mob riots. Canada had, however, one great advantage, her legislative task being made far easier because by a study of comparative politics she was able to avoid and to profit by our lack of judgment. Also, the immigration of the Chinese to Canada did not begin until after the United States, by the exclusion law, had practically denied them entrance. With such a shining example of the violation of international comity before them, it was quite natural that the Dominion government elected to steer in the opposite direction to the policy of the United States, and that not even the most bitter opponents of the Chinese in British Columbia were in favor of exclusion, for that would have been a hazardous course which in all likelihood would have involved the entire British Empire. It must be remembered that Canada, though to all intents and purposes a self-governing commonwealth, is nevertheless not a sovereign entity. The Dominion is, and proudly so, an integral part of the vast possessions over which the British rule, and of which the nerve center is in the Foreign Office at London. In that empire is found a more complex aggregation of races and nationalities than in the Roman Empire, even at the height of its power. The task of assimilating, nay, of even conciliating such

heterogeneous peoples is a titanic duty which the United States has never been called upon to perform. One mistake in this task of ruling this greatest empire the world has ever seen, such as the exclusion of the Chinese from Canada, and the flames of racial and sectional hatred, combined with religious antagonism, which unfortunately has been the incentive for the bloodiest wars of history, would have been kindled throughout the British possessions, especially in India, Burmah and the Soudan, where racial discontent is often seething at the boiling-point. Had England and her colonial governments allowed race hatred to dominate reason and national policy, as we did during the Kearney régime and after, the British Empire long ago would have been shattered into fragments.

From India, the most restive and unmanageable of all the British possessions, Canada found a problem on her hands of greater magnitude than the difficulty experienced with the Chinese. Here again it was necessary to proceed with extreme caution, for the English regeneration of India has largely proven to be a thankless performance so far as the benefited inhabitants are concerned. The more liberty granted the more liberty wanted, to which must be added the vexatious questions arising from conforming religions and customs centuries old to meet the new conditions, together with the awakened national consciousness which inevitably would be brought into vigorous life and quickened by the British programme. Thus it can readily be seen that many times the Anglo-Indian methods of administration had to be adjusted to the most sensitive balance. Canada was not blind to her responsibilities, and her scheme for restricting the entry of immigrants from India without giving offense to the inhabitants thereof, was pronounced by the Hon. Mr. King as "a dovetailing, so to speak, of Great Britain's well-known policy in the protection of the native races in India, and Canada's policy in the matter of immigration."¹⁸ In pursuance of such purpose

¹⁸ *Report on immigration to Canada from the Orient and immigration from India in particular*, by W. L. Mackenzie King, C. M. G.; 7-8 Edward VII, Sessional Paper No. 36 a, A. 1908. Ottawa, May 4, 1908.

Mr. King said further: "The liberty of British subjects in India is safeguarded rather than curtailed, the traditional policy of Great Britain in respect to the native races of India has been kept in mind, and the necessity of enacting legislation either in India or in Canada which might appear to reflect on fellow British subjects in another part of the empire has been wholly avoided. Nothing could be more unfortunate or misleading than that the impression should go forth that Canada, in seeking to regulate a matter of domestic concern, is not deeply sensible of the obligation which citizenship within the empire entails. It is a recognition of this obligation which has caused her to adopt a course which by removing the possibilities of injustice and friction, is best calculated

Canada found it necessary to make a thorough investigation of the means by which East Indian immigrants were induced to come to the Dominion. It was soon uncovered in this inquiry that contract labor was flourishing among the laborers of this people as it had flourished among the Chinese before the imposition of the \$500 head-tax. The British Indian Emigration Act (xxi, 1883), enacted to protect the Indian laborer from contract labor agencies, provided, however, that departure from India "under an agreement to labor for hire" was not lawful except to countries specified in the act or where notification to that effect had been made. It developed that such immigration "in the sense defined" was illegal by the operation of this Indian emigration act in applying to Canada and that such immigration could not be made lawful unless the Dominion government, by the declaration of the governor general in council, would make notification allowing it, which was not done. This in itself solved the problem, but Canada pushed the inquiry further and discovered that few natives from India emigrated of their own accord but had been unduly influenced by steamship agents, and persons and manufacturing establishments interested in exploiting the immigrant because of his ability to work at a lower wage than that demanded by native Canadian laborers. To offset these causes and render them inoperative in the future the government of India, at the request of the Canadian government, gave sufficient warning that literature scattered broadcast through India describing Canada as a land of fortune must be discontinued; the steamship companies were notified that neither the British nor the Dominion government looked with favor upon their activities to increase immigration; a continuous journey from India to Canada was demanded, and each immigrant was required to have cash on hand to the amount of at least twenty-five dollars. Through such beneficial requirements was the "dove-tailing" of the policies of Great Britain and Canada accomplished and by these simple and effective remedies each country was able to respect the obligations of the other and to enforce regulations which saved the situation without danger to the empire.

We have acquired on quite a respectable scale a colonial empire, increased without effort by the Spanish-American war, which to-day

to strengthen the bonds of association with the several parts, and to promote the general harmony of the whole. In this, as was to be expected, Canada has had not only the sympathy and understanding, but the hearty cooperation of the authorities in Great Britain and India as well." *Ibid.*, p. 10.

totals an area of 716,555 square miles in extent and includes Alaska, Porto Rico, the Panama Canal Zone, Hawaii, the Philippines, two little specks in the Tutuila Group and the Ladrões which cannot be seen on the map without the aid of a microscope. It was not long until we were confronted in our Pacific possessions, in Hawaii and the Philippines, with difficulties similar to those which are almost an annual occurrence in the British dominions the world over and which cause the Foreign Office at Downing Street ceaseless anxieties. As the result of the war with Spain we found ourselves, whether we wished or no, a world power, with international relations involving international responsibilities in all the minute distinctions which those terms imply. Like Canada, necessarily forced to harmonize her foreign policy in accordance with that of the mother country, we were now compelled to deal with questions of grave significance, not as a nation selfishly wrapped up within our four boundaries but occupying, by virtue of our outlying dependencies, a position which carried with it all the unique obligations of comity and reciprocity to be associated with the other great powers, involving diplomacy and national conduct of an entirely different nature than that to which we heretofore had been accustomed. It was not surprising, therefore, that the Chinese problem should again come up for consideration, and here we proved ourselves to be painfully consistent with our past legislation by disposing of the matter in a way which might aptly be termed a lack of international foresight.

By a joint resolution of July 7, 1898, it was declared that "there shall be no further immigration of Chinese into the Hawaiian Islands, except upon such conditions as are now or may hereafter be allowed by the laws of the United States; and no Chinese, by reason of anything herein contained, shall be allowed to enter the United States from the Hawaiian Islands."¹⁹ By the act of April 30, 1900,²⁰ "all persons who were citizens of the Republic of Hawaii on August twelfth, eighteen hundred and ninety-eight, are hereby declared to be citizens of the United States and citizens of the Territory of Hawaii."²¹ Chinese residing in these Islands were given one year in which to obtain certificates of residence, and if at the end of the said year they had provided themselves with such certificates, they "shall not be deemed to be unlawfully in the United States," but it

¹⁹ 30 Stat., p. 751.

²⁰ 31 Stat., pp. 141-161.

²¹ *Ibid.*, Sec. 4.

was expressly stipulated that "no Chinese laborer, whether he shall hold such certificate or not, shall be allowed to enter any state, territory or district of the United States from the Hawaiian Islands."²² Thus by the last clause, whether the Chinese laborer were *registered or not*, he was denied entrance to the mainland of the United States or any possession thereof.²³ As regards the exempt classes of Chinese "who are citizens or subjects of other insular territory of the United States than the Territory of Hawaii," these were permitted "to go from such insular territory to the mainland or from one insular territory to another," provided that they obtained the required certificate, but with the saving clause that "the privilege of transit shall be extended to all persons other than laborers," and should not apply to one of the excluded class, even if he were registered. Furthermore, "subjects of the Chinese Empire of the exempt classes residing in Hawaii must obtain certificates from the representative of their own government (the Chinese consul, Honolulu), and such certificates must be viséed by the inspector in charge of the immigration service in said Islands instead of by a diplomatic or consular officer."

In the Philippines we started off badly. By an order of General Otis, September 26, 1898, all Chinese were prohibited from coming to the Islands except the exempt classes who were lawfully able to enter the United States and laborers who had formerly resided in Manila and for the time being were absent. This order was characterized by the Department of State as "incident to the military administration," and allowed because "it seems appropriate and desirable not to interfere with the discretion of the military commander," but that "the measure he (Otis) had adopted should not be regarded as in pursuance of a settled policy on the part of the United States government."²⁴ Minister Wu, at Washington, protested, however, on the grounds that the order was not needed as a military measure, that the determination of the status of these new possessions was thus taken from Congress and that the friendly relations with China were thereby disturbed. Acting Secretary of State Hill, in

²² 31 Stat., Sec. 101.

²³ However, "as *all persons* who were citizens of the Republic of Hawaii on August 12, 1898, are citizens of the United States, persons of the Chinese race claiming such status may be admitted at either mainland or insular ports of entry upon producing evidence sufficient to establish such claim." *Regulations*, Rule 11, (b). Thus such a laborer could not be excluded, as he was a citizen. 23 Op. Atty. Gen., 345 and 509.

²⁴ U. S. *Foreign Relations*, 1899, pp. 209, 211, 212; Moore's *Digest*, vol. iv, pp. 234, 235.

a communication to Lord Pauncefote, as to whether "Chinese persons who are British subjects are permitted to travel in the Philippine Islands," replied as follows:

"1. Chinese persons are to be excluded from the Philippines, 'whether subjects of China or any other foreign power.

"2. That such exclusion is a military measure adopted to meet existing military necessity. Being a military expedient, it is not to be considered as in any way affecting the permanent policy of the government of the Islands under the conditions of peace.

"3. The military order relating to said exclusion did not extend the Chinese-exclusion acts of the United States Congress to and over the Philippine Islands as a law of the United States; the provisions of said acts were adopted as appropriate remedies for the military necessity, and made operative independently of the statute by authority resulting from military occupation."²⁵

The halfway concession to China contained in the last paragraph of the above could not have been expected to continue, as the United States, considering the popular ignorance of the real Chinese question at home, necessarily had to be consistent in its policy in the Philippines as in Hawaii and the mainland, and this it proceeded to do, in spite of the fact that the Asiatic possessions were next door to China and largely under Chinese influence. Therefore, by the act of April 27, 1904, it was stipulated that the exclusion laws "are hereby re-enacted, extended, and continued, without modification, limitation, or condition; and said laws shall also apply to the island territory under the jurisdiction of the United States, and prohibit the immigration of Chinese laborers, not citizens of the United States, from such island territory to the mainland territory of the United States, whether in such island territory at the time of cession or not, and from one portion of the said island territory of the United States to another portion of said island territory," but it was provided that the "said laws shall not apply to the transit of Chinese laborers from one island to another island of the same group."²⁶ Thus the policy of exclusion was now rounded out and completed in all the lands governed by the United States, even to those in Asiatic waters, and once more the Chinese arguments and appeals for the suspension

²⁵ Acting Secretary of State Hill to Lord Pauncefote, May 7, 1901, *Foreign Relations*, 1901, p. 214; Moore's *Digest*, vol. iv, pp. 235, 236.

²⁶ Act of April 29, 1902, as amended and re-enacted by section 5 of the Deficiency Act of April 27, 1904; 32 Stat., Part 1, p. 176; 33 Stat., pp. 394-428.

of this objectionable discrimination, or at least a diminution as far as the Philippine Islands were concerned, met with disregard and failure.

There is another contrast worthy of mention between the United States and Canada and that is in regard to the settlement of the opium question. England, as is well known, has been making strenuous efforts within the past years to atone for the calamitous results of the war of 1840 with China, and in this she has been ably seconded by her dependencies, notably Canada, which passed an act in 1911 "to prohibit the improper use of opium and other drugs."²⁷ This comprehensive statute made it a "criminal offense" for anyone who, "without lawful or reasonable excuse, imports, sells, offers for sale, has in his possession, or takes or carries, or causes to be taken or carried, from any place in Canada to any other place in Canada, any drug for other than scientific or medicinal purposes." As to the vicious use of the compound, "every person who smokes opium, or who, without lawful or reasonable excuse, has in his possession opium prepared or being prepared for smoking, shall be guilty of a criminal offense," and furthermore, "any person who, without lawful and reasonable excuse, is found in any house, room or place to which persons resort for the purpose of smoking or inhaling opium," is liable, as in all these infractions, to conviction, fine, and imprisonment, or both, by law. Those who are by the act competent to deal in the fearful narcotic are carefully enumerated, and its use for medicinal prescriptions is similarly defined. So serious is the opium danger regarded, and rightly so, that search warrants are allowed in suspected cases, and the drugs and receptacles, if found, are to be seized and the owners punished.

The Canadian law is applicable to the entire Dominion, and as such is capable of universal enforcement, in Ontario as in British Columbia. Now a word as to the difficulties confronting American legislation on this same evil, one of the most deplorable and degrading of human vices. There is a general federal law which prohibits interstate traffic in opium, but further than this the national government cannot proceed, and the necessary enactments to purge the country of this appalling danger is left by virtue of the constitution to the various state governments. The latest illustration of how this division of power really works, in questions affecting the vitality

²⁷ 1-2 George V, Chap. 17, assented to 19th May, 1911.

of the entire nation as in the one under consideration, is found in a recent case in Philadelphia, where the police magistrate discharged three merchants arraigned on the charge of selling opium. These were released from custody because the present law of Pennsylvania, one of the most progressive states of the Union, forbids the possession of an opium pipe but does nothing more, not even forbidding the sale or the use of the opiate. The only way that convictions can be secured is in accordance with the drug law, which prohibits the sale of drugs having a sufficient percentage of poison to kill the consumer. Dr. Koch, vice-president of the State Pharmaceutical Board, said: "We knew that the legal aspects of opium prosecutions would become public sooner or later. We did not wish to make any public announcement because we desired to have enacted a flawless law. . . . An opium bill, just and applicable to traffic in opium in every form, was presented to the last general assembly, but was defeated." Magistrate Gorman made the announcement, after releasing the three merchants, that "it is perfectly legal for anyone to sell or purchase opium in this state. And as far as the law is concerned, anyone has a right to smoke opium, in a store, in the streets, or in their homes."²⁸

Such is the status of the opium question at the present time of writing in the State of Pennsylvania, one of the bulwarks of the American Union, whose law, enacted some thirty years ago, forbids neither the sale nor the use of the drug, nothing but "a pearl inlaid pipe and a peanut oil burning lamp." In contrast to this we have the excellent example of Canada's successful legislation before us, a comprehensive law applicable over the entire Dominion without preliminary hair-splitting arguments as in the United States, whether the statute is constitutional or not, or might by some legal twist of language violate one of the sacred prerogatives of our forty-eight almost sovereign states. If we wish to be successful in our foreign relations in all their various aspects, it will be necessary for us first of all to put our house in order, to reach some understanding among ourselves whereby all problems touching upon international relations in whatever form would be successfully treated either by our forty-eight governments alike, which is impossible, or solely by the central authority, which is the logical and ultimate solution. A situation such as the one cited gives weight to the desire already strongly

²⁸ Philadelphia *Public Ledger*, November 25, 1912, p. 1.

expressed that all questions dealing with the moral and physical welfare of the people be delegated by the states to the federal government, so that by one law, as in Canada, all evils and corruptions similar to the above can be dealt with promptly, uniformly and efficaciously, covering equally and without discrimination every phase and character of our complex national life.

By the comparisons herein set forth it must be admitted that Canada has solved the Chinese question, which is by no means as serious as some American publicists would have us believe, in a manner far more satisfactory than the entire record of our legislation on the subject. Beginning with the agitation for exclusion our laws have been consistently a series of petty irritations and discriminations which do not speak well for our vaunted ideals on race equality and opportunity; and as far as the Chinese nation is concerned our Declaration of Independence might as well have been a dead letter. Of course the situation is above the ordinary international complications, but it is far from being a "yellow peril" or a menace to our social and industrial institutions. What we need to do is to make at least an effort to understand the Orient, to try to appreciate the Chinese viewpoint. What is still more urgent and in need of immediate attention is the thorough overhauling of our regulations concerning the Chinese on the basis of an intelligent, equitable and scientific treatment, which, if done long ago, would have produced an immense amount of good and would have prevented the greater amount of harm which has resulted from these self-same restrictions.

China has at last reached the definite parting of the ways between the old and the new, and the Orient, self-sufficient for centuries, is now merging with the Occident to an extent unappreciated in America. Though there was nothing spectacular about the Chinese revolution, yet it accomplished its purpose, and to-day a new republic is waiting to be received into the family of nations. Coincident with this change of government, or rather antedating it by a decade at least, is the tremendous revival of Chinese learning, not the antiquated style of canonical aphorisms which had been followed for ages but an intensely absorbing study of world politics, of world economics, of all matters which are vital to a world power of the twentieth century. Under such a system of national scrutiny it was inevitable that the American policy of exclusion should be subjected to keen criticism and disparaging judgment, which will

cause a further decided retrogression of American prestige and commerce if our unwise attitude towards China and the Chinese is not materially altered. Young China has ceased to be a theory and is now a fact, a living, dynamic force of enormous potentialities. What the ultimate results will be when this undeveloped energy which has lain dormant for a thousand years is fully awakened only the future can reveal. Therefore it stands all the more to reason that our hackneyed system will not bear analysis in the face of this modern Chinese renaissance, and that if we wish to regain the position we once held, or even retain what we have, it will be necessary for us to act quickly and decisively. We have a splendid opportunity offered us, which carries with it however the ultimatum that we must conform our national policy to the actualities of the present day, and for this necessary readjustment the writer advances the following propositions:

- I. Recognition of the Chinese Republic.
- II. Abrogation of the treaties and conventions in force with China and immediate legislation embracing mutual comity, reciprocity and most-favored-nation clauses.
- III. Repeal of the exclusion laws and regulations and the substitution of a sufficiently prohibitive head-tax to keep out undesirable immigration.

It has been the national dictum of our republic ever since its foundation, and thoroughly grounded into us by the Genêt experience, to avoid all entangling alliances with other powers and to keep our foreign affairs distinct and separate from the interests of Europe. Thus every act which might have some bearing upon international relations has been carefully weighed by the State Department before receiving the sanction of the government. But this undue caution, while entirely laudable in itself, yet reacts to our detriment in certain instances where there is little or no justification for such a course. An example of how we are injuring ourselves by relying too much upon our past conduct is in delaying the recognition of the Chinese republic, which, beyond a doubt, is to-day an accomplished fact and gives every indication of growing strength and increasing activity. Of course, this reticence on our part is perfectly understandable by a review of our history, being the logical resultant of that period when the fear of Napoleon, of Metternich and the so-called Holy Alliance lay heavily upon us. But it is not to be expected that

the Chinese know American history, consequently our ingrained attitude is incomprehensible to them and our continued passivity in this matter of recognition has been received by them with pained surprise which is rapidly being changed to anger and a desire in some way to retaliate.

We are looked upon by China and other nations, even by Europe, as the leading exponent of republican institutions by virtue of the fact that our form of government, a dubious experiment at its inception, has proven itself to mankind, and, besides accelerating the greatest revolution the world has ever seen, has resulted in numerous duplications, the latest of which is China. Therefore the Chinese turn first to us for our approval because of our exalted position, but as yet we have failed to give the least sign of official encouragement. We made the same blunder with the South American republics in their struggle for liberty and at the time when their independence had become an indisputable reality, and in spite of the incalculable benefits of the Monroe Doctrine, they have not forgotten nor forgiven our lack of judgment, our want of tact, our inability to foresee the future by delaying this comparatively simple matter of recognition, which, after a certain stage in the affairs of the revolted people has been reached, is hardly more than a mere expression of sentiment, especially when a powerful nation confers it, yet which gives the grateful recipients an international status, and more than often results in a return of friendship and commercial benefits from them out of all proportion to the original risks involved. There is no doubt, for it is admitted by the Chinese themselves, that should we bestow this act of grace immediately upon the Republic of China, by this happy stroke of diplomacy we would add millions upon millions to our commerce and would re-establish ourselves in that enviable position which we once held, as the foremost friends and counsellor of this Asiatic power. What makes our bourgeois attitude all the more un-American is that in the Far East there is absolutely no valid excuse for delay. The United States has everything to gain and nothing to lose, without the least fear of international complications. Such act cannot affect our diplomatic relations with Europe regarding the Orient because as it is we have been practically isolated for the past few years, having incurred the covert hostility of the powers, with the possible exception of England, through our open-door policy. This consistent antagonism to the American programme

was sufficiently illustrated by the dismal reception given the Knox proposals to neutralize the Manchurian railways, and this temporary defeat proved that our ideas as to Chinese integrity and inviolability of sovereignty were not looked upon with favor by nations interested in obtaining their share of China when the drama of dissolution should finally occur. All danger of the latter contingency, however, has been removed by the astonishing rejuvenation of the intended victim, and in the place of the decrepit empire of the Manchus stands a young, vigorous, virile republic, waiting for our formal nod of recognition and unable to understand what reason we may have for hesitancy because there is none.

The abrogation of the present treaties and conventions in force with China is a comparatively easy matter, because we may by international law regard the change of government in China as sufficiently violent in form to justify ourselves in considering the relations entered into with the Manchu monarchy at an end, without waiting to resort to the customary diplomatic procedure. The next step would be the promulgation of a new treaty of mutual comity and reciprocity, which, however, must be supported by a national policy that would faithfully observe these stipulations, and would carry them into effect, instead of the combinations of meaningless phrases which constitute our present documents. It is difficult, in fact impossible, for us to orientate ourselves enough to appreciate the emotions of the Chinese in reading that by treaty they are given the right "to go and come of their own free will," and that "all the rights, privileges, immunities, and exemptions which are accorded to the citizens and subjects of the most-favored nation,"²⁹ shall likewise be extended to them, and that "if Chinese laborers, or Chinese of any other class, now either permanently or temporarily residing in the territory of the United States, meet with ill-treatment at the hands of any other persons, the government of the United States will exert all its power to devise measures for their protection and to secure to them the . . . rights . . . to which they are entitled by treaty."³⁰ Such articles, well meant at the time of ratification, have since become obsolete through consistent violations on the part of the United States by the statutory development of its exclusion policy, and the resulting temper of the Chinese is clearly brought

²⁹ *Treaty of 1880*; 22 Stat., 826, Art. ii.

³⁰ *Ibid*, Art. iii.

out by the denunciation of the treaty of 1894 ten years later, which consequently expired by reason of such action. Therefore, to re-establish mutual and friendly relations with China, it will be necessary to draw up an entirely new treaty, one which would annul all present treaties and conventions in force and which would embody a real instead of an apparent mutuality of interests. This, if done without further hesitation, will again secure for us that primacy in the foreign affairs of China which we once held but forfeited through our inexcusable indifference and delay in adjusting existing wrongs, and which, unless we act quickly, will be extremely difficult to regain.

Patriotism is one of the few universal virtues. It is found alike in the great powers as in nations that have been neutralized to preserve their identity. China possesses this inestimable quality no less than the United States, though in a far different degree. The patriotism of the Chinese is that higher patriotism which stimulates a Christian love for peace and a Roman love for order and for stability. By the teachings of their philosophy and their religion they hold the soldier in contempt, whereas we cover him with tinsel, set him upon a pedestal and worship him. In return we regard their abhorrence for war as an evidence of weakness and want of national character, yet, according to the religion which we ourselves profess to follow, the Chinese are right and we are wrong.

What has this to do with exclusion? Simply that by our regulations against the Chinese we have failed to take into account a proper appreciation of their national characteristics; that we have refused to recognize in them this essence of patriotism which has been so brilliantly illustrated within the last two years and in that quarter of the world where it was least expected. Not alone have we singled them out for exclusion from all the rest of mankind, but by the same laws we have denied them the right to citizenship, which act, unjustifiable in any sense whatsoever, is the sum total of indignity which one nation can heap upon another. All of this was very well in the days when China, under the Empress-Dowager was supremely content with herself and chose to be non-existent to Europe and America, but the days of seclusion, however, are past. This is an age of international stress and rivalry in commerce, politics and diplomacy, and which was made clear to China by the bitter humiliations of the Japanese war, the territorial aggressions of the powers and the Boxer rebellion. Forced to accept modern conditions or

suffer dissolution, China cast aside the shell of antiquity and by rapid, heartbreaking efforts has succeeded in attaining a position of eminence which henceforth will demand respect to this republic as a nation, a race, and a sovereign entity. No longer will it be possible to insult the Chinese with impunity, and the power that has the most to learn in this regard is the United States.

Our exclusion laws have proven a failure, not through the fault of the Bureau of Immigration, which is composed of excellent and efficient officers, but from the very nature of the regulations. The fact that our country is barred to them naturally makes the excluded class of Chinese all the more eager to enter, and to attain this purpose they resort to bribery, fraud, deceit, cunning, to all the manifold tricks which Americans themselves would employ if China were still the forbidden land. The result means disregard and contempt for the law in every successful instance, of which there are legion, for when an Oriental matches his wits against the Anglo-Saxon, it is a foregone conclusion who will get the better of the argument. According to the Commissioner General of Immigration, there "are some causes for congratulation and optimism, but many more reasons for feeling that the present statutes are wholly insufficient to maintain the long and frequently avowed policy of excluding from this country laborers of the Chinese race," and, "it must be realized and conceded that, unless some change is made in the law, such immigration will constantly increase in the future."³¹ Thus by the admission of the highest officer in authority it is seen that our laws have failed in total exclusion, and by reason of such failure have nullified the only motive for their existence. Yet for this discredited system, incapable of rigid enforcement, and therefore useless, we are endangering our commerce, our friendly relations, our entire future in the Far East. It must not be supposed that China desires the coolie to emigrate. The republic, for the sake of its own prestige and interests abroad, prefers to keep him at home. But it is not to be expected that China will give a helping hand in solving our difficulties in the face of the unfair discriminations and colossal blunders that still remain on our statute books. The remedy is clear and simple; by following the suggestions discussed above by the writer, of repealing these ineffective laws and emulating Canada in imposing a sufficiently burdensome head-tax to keep out undesirable immi-

³¹ *Annual Report of Commissioner General of Immigration*, 1911. Washington, 1912, p. 143.

gration, and by further limiting the number of arrivals on each ship or for each year, the question would rapidly solve itself, besides securing the hearty cooperation and good-will of both nations concerned. The result would be not only a cause for gratification but the knowledge that by such conciliatory and equitable means we have safely accomplished our purpose without giving offense to the Republic of China and without apology for or blemish to our national ideals.